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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

---X

WEIGANG WANG and HAILONG YU,
on behalf of themselves and others similarly situated
Plaintiffs,

v.

CHAPEI LLC d/b/a Wok Empire,
CHA LEE LO, and JOHN DOES #1-10
Defendants.

---X

Case No: 15-cv-2950 (MAS)(DEA)

PLAINTIFFS' BRIEF SUPPORT OF PLAINTIFFS' MOTION FOR CONDITIONAL CERTIFICATION AND COURT-AUTHORIZED NOTICE

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PRELIMINARY STATEMENT

TROY LAW, PLLC, and through local counsel, FISHER TAUBENFELD LLP, represents Weigang Wang and Hailong Yu (collectively the "Named Plaintiffs") on behalf of themselves and other similarly situated (collectively the "Prospective Collection Action Members" or "Plaintiffs"), in a Fair Labor Standards Act ("FLSA") collective action pursuant to 29 U.S.C. § 216(b), against Chapei LLC d/b/a Wok Empire, Cha Lee Lo, and John Does #1-10 (collectively the "Defendants"), for failing to pay their hourly paid, non-managerial employees minimum wages and overtime pay as required by the FLSA.

The Plaintiffs have met this burden by providing factual assertions that they worked well in excess of forty (40) hours per week and were compensated in violation of the minimum wage and overtime provisions of the FLSA. *See* Complaint. (attached hereto as "Exhibit 1"); *also see* Wang Aff. ¶¶ 21-23; Yu Aff. ¶¶ 16-18 Both named Plaintiffs state that they are aware of others similarly situated through their own personal knowledge. *see Id.*; *see also* Wang Aff .¶¶ 26, 31-35; Yu Aff ¶¶ 21, 26-30. The allegations in Plaintiffs' Complaint and the affidavits of the named plaintiffs are sufficient to meet the low burden of showing the named plaintiffs are similarly situated to other employees.

Before the court is the motion of Plaintiffs to certify conditionally a collective action pursuant to 29 U.S.C. § 216(b). Through this motion the Plaintiffs seek to protect the rights of all of the non-managerial personnel employed by the Defendants at their restaurants throughout the State and City of New Jersey by: (1) timely sending them a Court approved Notice of this Lawsuit, along with the opt-in forms, to be posted in conspicuous locations in the Defendants' New Jersey restaurants; (2) allow ninety (90) days for potential collective members to make an informed decision about whether to join this action to recover the unpaid wages the Defendants owe them; and (3) requesting production of contact information in an excel document, including alternate phone numbers and addresses, last known addresses, and last known email addresses, work locations, Social Security numbers and dates of employment of all the Defendants' former and current non-managerial employees.

PROCEDURAL HISTORY

Plaintiffs filed a Collective Class Action Complaint in the District of New Jersey on April 24, 2015, under the FLSA. *See* Doc. No. 1. The Complaint alleged that Plaintiffs are entitled to recover from Defendants, unpaid overtime wages of at least one and one-half (1.5x) times the regular pay at which they were employed for every hour worked in excess of forty (40) hours in a single workweek, unpaid minimum wages, liquidated damages equal to the sum of their unpaid overtime compensation, and attorney's fees and costs pursuant to the FLSA 29 U.S.C. §§ 201, *et seq*., N.J.S.A. 34:11-56a *et seq.*, and N.J.A.C. 12:56 *et seq*.

On April 23, 2014 Defendants, through their attorneys filed an Answer to Plaintiffs FLSA Collective Complaint. *See* Doc. No. 5.

Plaintiff Weigang Wang ("Wang") was employed by the Defendants as a cook in various locations of their kitchens from April 2012 to March 2015. *See* Compl. ¶¶ 21,23. Plaintiff Hailong Yu ("Yu") was employed as a cook by Defendants and worked in various locations of their kitchens from August 2010 to July 2013. Compl. ¶¶ 22-23.

Chapei LLC. d/b/a Wok Empire ("Chapei") operates a group of Asian kitchens. All members of a kitchen chain known as Wok Empire located in various Shoprite supermarkets in New Jersey, including those located at 1 South Davenport St., Somerville, New Jersey; 318 Lloyd Road, Matawan, New Jersey; and Route 35 & Harmony Road, Middletown, New Jersey. Compl. ¶ 20. Defendant Chapei is an "enterprise" as defined by the FLSA that had gross sales in excess of $500,000 for all relevant periods. Compl. ¶¶ 7-8.

Upon information and belief, defendant Cha Lee Lo ("Lo") is an owner or part owner of Chapei, and has the power to hire and fire employees, set wages and schedules, and retain their records. Compl. ¶ 10. Defendant Lo was involved in the day-to-day operations of Chapei and played role in managing the business. Compl. ¶ 11. Upon information and belief, defendants John Does #1-10 represent the other owners, officers, directors, members, and/or managing agent of Chapei, whose identities are unknown at this time, who participated in the day-today operations of Chapei, who have the power to hire and fire employees, set wages and schedules, and maintain their records. Compl. ¶ 12

On April 24, 2015, Plaintiffs filed the Complaint alleging violation of the Fair Labor Standards Act ("FLSA"), and the New Jersey Wage and Hour Law. *See* ECF Doc. No. 1. Defendants Cha Lee Lo and Chapei LLC d/b/a Wok Empire, by attorneys, filed their Answer to the Complaint on May 19, 2015. *See* ECF Doc. No. 5.

On February 8, 2016, Plaintiffs filed motion for leave to amend complaint to add additional Defendants. *See* ECF Doc. No. 21. Defendants opposed Plaintiffs' motion for leave to amend complaint. *see* ECF Doc. No. 22. On April 20, 2016, the Court denied Plaintiffs' motion for leave to amend complaint. *see* ECF Doc. No. 31.

FACTUAL BACKGROUND

The Named Plaintiffs and Prospective Collective Action Members are former and current employees of the Empire Wok chain owned and operated by Defendants. As alleged in their Affidavits, annexed hereto as "Exhibit 2", and "Exhibit 3" along with the Compliant, annexed hereto as "Exhibit 1", the Named Plaintiffs experienced a common set of policies and practices by the Defendants as to overtime and minimum wages, and spread-of-hours pay in violation of the FLSA and NJWHL. *See* Docket No. 1. Further, Named Plaintiffs allege that there are additional former and current employees who have been victim to the same unlawful employment practices. *Id*.

The employment policies and practices common to the Named Plaintiffs included the following:

a. The Defendants required the Plaintiffs to regularly work in excess of forty (40) hours per work week. However, Defendants failed to compensate Plaintiffs the required one-and-one-half times the regular wage rate for work in excess of forty (40) hours. Wang Aff. ¶¶ 21-23; Yu Aff. ¶¶ 16-18; Compl. ¶¶ 26-27.

b. The Defendants willfully failed to keep records required by the FLSA even though the Named Plaintiffs were entitled to overtime pay. Compl. ¶ 28.

c. The Defendants willfully failed to pay the Plaintiffs at the minimum wage rate for each hour worked as required by the FLSA, NJAC and NJSA, and willfully failed to keep records required by the FLSA even though Plaintiffs were entitled to minimum wage. Wang Aff ¶¶ 12-15, Yu Aff. ¶¶ 11-15; Compl. ¶¶ 41, 48.

The complaint in this action, filed April 24, 2015, alleges violations of the FLSA, NJAC, and NJSA. *See* ECF Doc. No. 1. The claims are asserted on behalf of the Named Plaintiffs, and Prospective Collective Action Members.

The Named Plaintiffs now seek an order pursuant to 29 U.S.C. § 216(b) granting conditional certification, and authorizing the Named Plaintiffs to send notice to all Prospective Collective Action Members. Specifically, Plaintiffs seek conditional certification of the following similarly situated individuals:

all of those hourly paid, non-managerial employees of the Defendants, including but not limited to chefs, waiters, kitchen workers, dishwashers, delivery persons or any other equivalent employee, who previously worked, or is currently working at one of the Defendants' restaurants during the past three (3) years and who have worked for the Defendants as a non-managerial employee between April 24, 2012 and the date this Court decides this Motion.

ARGUMENT

A. Plaintiff Need Only Make a "Modest Factual Showing" that They and the Potential Collective Members are Similarly Situated.

In determining whether to certify a collective action under § 216 of the FLSA, courts in the Third Circuit use a two-step procedure. *Zavala v. Wal-Mart Stores Inc.*, 691 F.3d 527, 554-55 (3d Cir. 2012). First, the plaintiffs must establish that other employees "may be similarly situated" to them, and each individual must file a written consent to join the action. *See Sperling v. Hoffman la Roche, Inc.*, 862 F.2d 439, 444 (3d Cir. 1988) *aff'd and remanded*, 493 U.S. 165 (1989); *Aquilino v. Home Depot, Inc.*, No. 04-CV-4100, 2006 WL 2583563, at *1 (D.N.J. Sept 7, 2006). Nothing else is required for participation in a collective action under the FLSA which "has been construed liberally to apply to the furthest reaches consistent with congressional direction." *Kelley v. Alamo*, 964 F.2d 747, 750 (8th Cir. 1992) (quoting *Mitchell v Lublin, McGaughy & Assocs.*, 385 U.S. 207, 211 (1959)).

Neither the FLSA nor its implementing regulations define the term "similarly situated" however; courts have held that Plaintiffs can meet this burden by making a modest factual showing sufficient to demonstrate that they and potential plaintiff's positions are similar, not identical, to the positions held by the putative class members. *See Sperling v. Hoffman-La Roche*, 118 F.R.D. 392, 407 (D.N.J. 1988), *aff'd, Hoffman-La Roche, Inc. v. Sperling*, 493 U.S. 165 (1989); *see also, Jackson v. New York Telephone Co.*, 163 F.R.D. 429, 431 (S.D.N.Y. 1995) (at the preliminary notice stage, "plaintiffs are only required to demonstrate a factual nexus that supports a finding that potential plaintiffs were subjected to a common discriminatory scheme"); *Hoffmann v. Sbarro*, 982 F. Supp. 249, 261 (S.D.N.Y.1997), (at the conditional certification stage, a plaintiff must make only "a modest factual showing sufficient to demonstrate that they and potential plaintiffs together were victims of a common policy or plan that violated the law."); *Symczyc v. Genesis Healthcare Corp.*, 656 F.3d 189 (3d Cir. 2011). At this stage, the burden on plaintiffs is not a stringent one, and the Court need only reach a preliminary determination that potential plaintiffs are "similarly situated." *Jackson,* 163 F.R.D at 431 ("The inquiry at the inception of the lawsuit is less stringent than the ultimate determination that the class is properly constituted.").

Here, Plaintiffs submit sufficient evidence to meet the minimal standard required for conditional certification. With minimal case law in Third Circuit Court, courts in the Second Circuit generally make the decision to grant conditional certification based on the pleadings and any affidavits that may have been submitted. Conditional certification has been granted regularly by courts in this circuit based on the testimony of one or two plaintiffs and little more. *See Cohen v. Gerson Lehrman Grp. Inc.*, 68 F. Supp. 2 d 317, 331 (S.D.N.Y. 2010) ("The complaint and [plaintiff's] Affidavit are sufficient to warrant preliminary certification of a collective action in this case"); *Francis v. A & E Stores Inc.*, No. 06 Civ. 1638, 2008 WL 4619858, at *3 (S.D.N.Y. Oct.16, 2008) (granting conditional certification based upon a single affidavit and deposition testimony that job duties were similar at all stores); *Sipas v. Sammy's Fish box, Inc.,* No. 05 Civ. 10319, 2006 WL 1084556, at *2 (S.D.N.Y. Apr. 24, 2006) (conditionally certifying collective on basis of three affidavits and complaint's allegations); *Masson v. Ecolab. Inc.*, No. 04 Civ. 4488, 2005 WL 2000133, at *14 (S.D.N.Y. Aug. 17, 2005) (conditionally certifying collective on the basis of affidavits from three opt-in plaintiffs).

In this case, in their complaint, Plaintiffs have alleged that Defendants operated under a policy and plan, and under common policies, programs, practices, procedures, protocols, routines, and rules of willfully failing and refusing to pay Plaintiffs overtime wages at one-and- one-half times their regular wage for those hours worked in excess of forty (40) hours per work week, and refusing to pay Plaintiffs the minimum wage rate for each hour worked during a work week. Compl. ¶¶ 35-36.

It is during the second stage that the District Court has a fuller record, and will "…determine whether a so-called 'collective action' may go forward by determining whether the plaintiffs who have opted in are in fact 'similarly situated' to the named plaintiffs." *Myers v. Hertz Corp.*, 624 F.3d 537 (2d Cir. 2010). Where the court determines that the plaintiffs are not similarly situated, "the action may be "de-certified," and the opt-in plaintiffs' claims may be dismissed without prejudice." *Id*.

B. The Named Plaintiffs, and Prospective Collective Action Members are Similarly Situated with Respect to their Claims.

This lawsuit challenges a straightforward uniform policy set forth by the Defendants. Specifically, the common policy and plan upon which Defendants operate for failure to pay its non-managerial employees minimum wage and overtime wages as required under 29 U.S.C. §§ 206, 207(a)(1). This is precisely the type of claim that the Courts have recognized as being appropriate for conditional certification. *Myers*, 624 F.3d at 555 ("In an FLSA exemption case, plaintiffs [can meet their burden] by making some showing that 'there are other employees…who are similarly situated with respect to their job requirements and with regard to their pay provisions,' on which the criteria for many FLSA exemptions are based, who are classified as exempt pursuant to a common policy or scheme.")

C. The Named Plaintiffs, and Prospective Collective Action Members are Similarly Situated to their Job Duties.

Prospective class members need not be identically situated to the named plaintiffs or to each other. *Heagney v. European American Bank*, 122 F.R.D. 468, 483 (E.D.N.Y. 2001) (citing *Heagney* in holding that "in order to be 'similarly situated,' the plaintiffs do not have to perform the same job in the same location as long as there is a discriminatory policy common to all.").

Moreover, it does not matter that the prospective class members perform different duties. *See, e.g., Moss v. Crawford & Co.*, 201 F.R.D. 398 (W.D. Pa. 2000) (Court denied defendant's motion to decertify class, finding that plaintiffs were similarly situated despite "differences in plaintiffs' job duties, geographic locations and hourly billing rates".). Nor does the fact that they were employed at different times affect the determination of granting class notice. *See Toure v. Central Parking Sys. of New York*, 2007 U.S. Dist. LEXIS 74056 (S.D.N.Y. Sept. 28, 2007), at *8 (declarations asserting that defendants "had an express policy of forcing garage attendants on the night shift to work more than forty hours per week and refusing to pay them for the additional time" was sufficient to meet the burden of "making a modest factual showing sufficient to demonstrate that [Plaintiffs] and [other employees] together were victims of a common policy or plan that violated the law," regardless of the fact that dates of employment and hours worked were "unique to each employee.") (citing *Hoffman* 982 F. Supp. 249, 261 (S.D.N.Y. 1997)).

In alleging that they were subject to common employment policies and practices that violated the FLSA, the Named Plaintiffs have met their minimal burden for collective action certification.

The Named Plaintiffs further state that they personally worked with other employees of the Defendants who, from the Named Plaintiffs' observations and discussions with the other employees, performed the same or similar duties and who were also underpaid, indicating widespread wage and hour violations affecting a large number of employees and Prospective

Collective Action Members. Wang Aff. ¶¶ 24-25; Yu Aff. ¶¶ 13-20.

The named Plaintiffs are "similarly situated" to potential opt-in plaintiffs. At the restaurants, all of the employees who were non-managerial employees were under a common practice and policy of not being paid minimum wage or overtime. The named Plaintiff Wang has worked at the restaurants for two (2) years and has personal knowledge of the workings of the kitchen. He states in his affidavit that he personally knows at least three (3) kitchen workers who were not paid overtime. The Named Plaintiffs who have submitted their affidavits herein, were kitchen workers for the seven (7) different locations of Wok Empire and state that they were victims of the policies and practices in violation of the FLSA. *see* Wang Aff.; Yu Aff. Plaintiffs even further state that they have spoken with Jianghua Li, Zhou and Guangyou Zhao who were kitchen workers at Wok Empire and they were also victim of Wok Empire's policy to not pay kitchen workers overtime. *see* Wang Aff. ¶¶ 24-25; Yu Aff. ¶¶ 19-20.

D. Certification in All Locations is Appropriate Since There is a Modest Factual Showing that All Locations Operated Under the Same Unlawful Practice and Policies.

In the Third Circuit, courts have found named plaintiffs to be "similarly situated" to employees at locations where they did not work, provided that the plaintiffs demonstrate that they were all subject to the same allegedly unlawful policy or practice. *Goldman v. RadioShack Corp.*, 2003 U.S. Dist. LEXIS 7611, 2003 WL 21250571, at *8 (E.D. Pa 2003). *See, Garcia v. Freedom Mortg. Corp.*, 2009 U.S. Dist. LEXIS 103147 (D.N.J. Nov. 2, 2009). To determine whether conditional certification across different locations is warranted, courts consider whether the plaintiffs have made a modest factual showing to support an inference that such a policy or practice exists. *Vargas v. General Nutrition Ctrs., Inc.*, 2012 U.S. Dist. LEXIS 115614 (W.D. Pa. Aug. 16, 2012).

Here, all locations are operated by Defendants, Shoprite of Aberdeen: 318 Lloyd Road, Aberdeen, NJ 07747; Shoprite of Middletown: Route 35 & Harmony Road, Middletown, NJ 07748; Shoprite of Somerville: 1 South Davenport Street, Somerville, NJ 08876; Shoprite of Woodridge: 877 St George Ave, Woodbridge, NJ 07095 and three (3) additional ShopRite locations, and operated under the same unlawful practices and policies. Compl. ¶ 23; Wang Aff. ¶ 7, Yu Aff. ¶ 6 Further, Plaintiffs personally had worked on various locations of Empire Wok and suffered from the same practices and policies implemented by the Defendants regardless of locations they worked. *See* Compl. ¶ 23; Wang Aff. ¶ 7, Yu Aff. ¶ 6. Specifically, all locations operated with the practice of not properly compensating for all hours worked in excess of forty (40) hours per week, the practice of not paying minimum wage, and the practice of not reimbursing work-related costs to employees.

E. Court-Authorized Notice is Fair, Practicable, Necessary, and Advances the FLSA's Goals.

The FLSA permits private parties to bring an overtime claim "[o]n behalf of…themselves and other employees similarly situated." 29 U.S.C. § 216(b). Further, the FLSA states, "No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought." *Id.*

In order to achieve the FLSA's "broad remedial purpose" district courts have the power to order that notice be given to other potential members of the plaintiff class under the "opt-in" provision of the FLSA dealing with actions for nonpayment of statutorily required minimum wages and overtime compensation. *Braunstein v. E. Photo. Labs., Inc.*, 600 F.2d 335, 336 (2d Cir. 1975), *cert. denied*, 441 U.S. 944 (1979); *Myers* 624 F.3d at 554 ("[D]istrict courts have 'discretion, in appropriate cases, to implement [§ 216(b)]…by facilitating notice to potential plaintiffs' of the pendency of the action and of their opportunity to opt-in as represented plaintiffs.").

The Court discussed the law governing class notice under the FLSA in *Hoffman v. Sbarro*, 982 F. Supp. 249, 262-262 (S.D.N.Y.1997), where it stated "[i]t is well settled that district courts have the discretionary power to authorize the sending of notice to potential class members in a collective action brought pursuant to § 216(b) of the FLSA". "Court authorization of notice serves the legitimate goal of avoiding a multiplicity of duplicative suits and setting cutoff dates to expedite disposition of the action." *Hoffmann-La Roche Inc. v. Sperling,* 493 US 165, 172 (1989).

Moreover, collective actions provide workers an opportunity to "lower individual costs to vindicate rights by […] pooling […] resources[,]" and enable the "efficient resolution in one proceeding of common issues of law and fact." *Id*. at 170. Notice here will provide collective members with a single forum in which to determine whether the Defendants' overtime and other wage and hour policies are lawful.

F. Expeditious Notice is Necessary to Protect the Rights of the Plaintiffs.

The FLSA permits private parties to bring an overtime claim "[o]n behalf of…themselves and other employees similarly situated." 29 U.S.C. § 216(b). Further, the FLSA states, "No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought." *Id*.

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Moreover, collective actions provide workers an opportunity to "lower individual costs to vindicate rights by […] pooling […] resources[,]" and enable the "efficient resolution in one proceeding of common issues of law and fact." *Id*. at 170. Notice here will provide collective members with a single forum in which to determine whether the Defendants' overtime and other wage and hour policies are lawful.

G. Under the FLSA, Plaintiffs Should be Afforded Three Years to Commence an Action Arising from a Willful Violation.

An action under the FLSA has a two-year statute of limitations, "except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued." 29 U.S.C. § 255(a). Where an employer has failed to inform its employees (the potential class members) of their FLSA rights as required by the FLSA regulations, equitable tolling is warranted. *Tae In Kim v. Dongbu Tour & Travel, Inc.*, 2013 U.S. Dist. LEXIS

148549 (D.N.J. Oct. 16, 2013).

Plaintiffs also request that any opt-in Plaintiffs that consent to join the action be afforded the same protections as the named Plaintiffs in the action. *Id.*. ("Where there may be a willful violation, the court applies the three-year statute of limitations for purposes of certifying a representative action."*); Anglada v. Linens 'N Things, Inc.,* 2007 WL 1552511, at *8 (S.D.N.Y. May 29, 2007) ("[W]here there has been no substantive discovery as to the appropriate temporal scope of the prospective class of member plaintiffs, and where the Plaintiff has alleged a willful violation of the FLSA, it is prudent to certify a broader class of plaintiffs that can be limited subsequently, if appropriate, during the second phase of the collective action certification process.").

H. The Court Should Approve Plaintiffs' Proposed Notice.

Plaintiffs request that the Court authorize them to send the Proposed Notice of Pendency ("Proposed Notice'), annexed hereto as "Exhibit 4," to all individuals who have worked in a non- managerial position for the Defendants at any time from April 24, 2012 to the present, and the Consent to Join Lawsuit Form, annexed hereto as "Exhibit 5." Plaintiffs also propose that a 90 day opt-in period be contained in the Proposed Notice. The Proposed Notice is "timely, accurate, and informative," and should therefore be approved. *Hoffmann-La Roche*, 493 U.S. at 172. Further the proposed notice contains the same language as that which was approved by Judge Berman in *Diaz v. Scores Holding Co, Inc.*, No. 07 Civ. 8718, 2008WL 7863502 (S.D.N.Y May 9, 2008). Finally, since the majority of the employees of the Defendants are Chinese immigrants not well versed in the English language, Plaintiff respectfully requests that all notices or posts to the employees' attention be in both English and Chinese.

a. The 90 Day Opt-In Period Should be Granted because Many Similarly Situated

Employees are Likely to be Chinese Immigrants and may be Travelling Internationally.

The named Plaintiffs in this case as well as many employees at the restaurant are Chinese immigrants. A longer opt-in period is reasonable where the potential opt-in plaintiffs may be difficult to contact due to their migration. See *Roebuck v. Hudson Valley Farms*, 239 F. Supp. 2d 234, 240-41 (N.D.N.Y. 2002) (allowing nine (9) month opt-in period where potential opt-in plaintiffs were likely to have migrated out of North America, and as far away as Bangladesh). Here, it is likely that the potential opt-in plaintiffs may be travelling internationally as many re likely to be Chinese immigrants. Thus, Plaintiffs request a 90-day opt-in period.

b. The Court Should Approve Posting Notice at the Defendants' Restaurant Locations because Numerous Courts Have Endorsed Notice at Defendants' Location and it is Routinely Approved.

Plaintiffs request the Proposed Notice be posted at the Defendants' restaurant locations should be approved. Courts routinely approve the posing of notice at the Defendants locations. *Bath v. Red Vision Systems, Inc.*, 13cv2366 (D.N.J. May 29, 2014). Thus, the Proposed Notice should be placed at the Defendants' locations.

c. The Court Should Order Defendants to Produce Contacts Information of Potential Opt-in(s).

Courts have been regularly ordering employers to produce last-known telephone numbers of prospective collective members. *See Labrie v. UPS Supply Chain Solutions, Inc.* 2009 U.S. Dist. LEXIS 25210 (N.D. Cal. Oct. 3, 2008); *McClean v. Health Sys.*, 2011 U.S. Dist. LEXIS 72346 (W.D. Mo., July 6, 2011) (Ordering Defendants to provide plaintiffs with the names, last known address, dates of employment, job title, nursing home location, phone number(s), and email addresses for all prospective plaintiffs in conditional certification of collective). Provided that the employees in this case are predominantly non-English speaking Chinese immigrants, all contact information such as telephone numbers and Social Security Numbers should be produced, so that they can be notified with the pending law suit.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this court: (1) conditionally certify this case as a collective action; (2) order the Defendants to produce a Microsoft Excel data file containing contact information, including but not limited to last known mailing addresses, last known telephone numbers, last known email addresses, social security numbers, work locations, and dates of employment for all those individuals who have worked for the Defendants as a non- managerial employee between April 24, 2012 and the date this Court decides this Motion; (3) authorize the issuance of the Proposed Notice and Consent to Join Lawsuit Form to all individuals who have worked for the Defendants as a non-managerial employee between April 24, 2012 and the date this Court decides this Motion during the opt-in period; (4) under FLSA, authorize a three-year claim after the cause of action accrued due to Defendants' willful violation of federal regulations; and (5) order the Defendants to post the approved Proposed Notice in conspicuous locations at all the locations where the Prospective Collective Action Members worked, or are now working.

Dated: Flushing, New York
March 13, 2017

Respectfully submitted,

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